

HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

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W.P.No.7601 of 1999

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Dated 4th day of April, 2007

Between:

Telagamsetty Balamma
Petitioner

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And

The District Collector,
Guntur District, Guntur
and two others
Respondents

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ORDER:

This writ petition is filed seeking a mandamus to declare the proceedings dated 31.3.1999 of the 2nd respondent, as arbitrary and illegal, and consequently direct the respondents not to interfere with the petitioner's house bearing No.30-259/1 in S.No.392, situated in Vinukonda village.

The brief facts of the case are that the petitioner is the absolute owner of a house bearing new No.30-259/1 in S.No.392 situated in Vinukonda by virtue of a registered sale deed and her family has been carrying on business in fruits in the premises for several years. Before she purchased the premises in 1984, she was the lessee of the premises since 1973. Right from the year 1973, a small portion of the site measuring 8 Ft. x 55 Ft. immediately adjoining her shop has been in her occupation. On 1.3.1983, when the panchayat authorities granted permission for occupation of the site, the petitioner erected a shed in it at a considerable expense and has been paying property tax to the Government regularly. On 30.11.1989, the revenue authorities granted Ac.00.01 cents of land in S.No.392, which is adjacent to the premises in question, and she paid the entire market rate i.e. Rs.1815/- to the 3rd respondent-Mandal Revenue Officer as per the demand notice dated 20.9.1993. Now, the petitioner's grievance is that the 2nd respondent issued the impugned order directing the 3rd respondent to resume the assigned land in an extent of Ac.0.0½ cent in S.No.392.

Heard the learned counsel for the petitioner.

The Government Pleader for Revenue has not filed counter affidavit, but on instructions has stated that the petitioner in contravention of the conditions of the patta is carrying on business, and hence, after issuance of notice, the assignment was cancelled.

Admittedly, an extent of Ac.0.01 cents in S.No.392 situated in Vinukonda village was assigned in favour of the petitioner by the Mandal Revenue Officer on payment of market value as early as in the year 1989. When once the assignment was made on payment of market value, this Court is of the view that the revenue authorities have no right whatsoever to order resumption of the land in question on the ground that the assignee has violated the conditions. It is like any regular sale as provided under Section 54 of the Transfer of Properties Act, in which case, the assignor will not have any right.

Hence, this Court is of the view that the order of resumption of the land in question passed by the 2nd respondent is without jurisdiction and the same is liable to be set aside.

In the result, the writ petition is allowed setting aside the order dated 31.3.1999 passed by the 2nd respondent. No costs.

bcj

04.04.2007